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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/668,744	09/22/2003	Ruediger Allmang	DKT02058	1774	
7	7590 08/06/2004	EXAMINER			
Borg Warner	Inc.	RICHTER, SHELDON J			
Patent Departm		ART UNIT	PAPER NUMBER		
3800 Automation Ave, Ste.100			3748		
Auburn Hills,	MI 48326-1782	DATE MAILED: 08/06/2004			

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary The MALLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply			Annliestian	Na	Applicant(s)		
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.15(a), in no event, however, may a reply be timely filled after SIX (p. MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (p) MONTHS from the mailing date of this communication. Failure to reply white it time are demand partied for reply will, by statute, cause the application to become ABANDED (SI SUS 2.73). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any seared patter them application in a condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 11-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) 11-20 is/are allowed. 6) □ Claim(s) 11-20 is/are allowed. 7) □ Claim(s) 11-20 is/are objected to. 8) □ Claim(s) 11-14 and 16 is/are rejected. 7) □ Claim(s) 11-14 and 16 is/are rejected. 7) □ Claim(s) 15 and 17-20 is/are objected to. 8) □ Claim(s) 15 and 17-20 is/are objected to by the Examiner. 10) □ The drawing(s) filled on 22 September 2003 is/are: a) □ accepted or b) □ objected to by the Examiner. 10) □ The drawing(s) filled on 22 September 2003 is/are: a) □ accepted or b) □ objected to by the Examiner. 10) □ The oath or declaration is objected to by the Examiner. 10) □ The oath or declaration is objected to by the Examiner. 10) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 11) □ The oath or declaration is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1.□							
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1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) Cher:	2) Notice of Draftsperson's Patent Draw	ing Review (PTO-948)	8)	Paper No(s)/Mail [5) Notice of Informal	Date	O-152)	

Application/Control Number: 10/668,744

Art Unit: 3748

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruestle. Fig. 1 of Bruestle discoses a turbocharger (1) including a turbine wheel (3) supplied with exhaust gas from an internal combustion engine via at least one supply channel (16), wherein the amount of supplied exhaust gas is controllable via a gas control device (9, 10), which is associated with an actuating device (33) for producing a control movement to be transmitted to the gas control device (9, 10), as well as a transmission device (34) for transmitting the control movement of the actuating device (33) to the gas control device (9, 10). With reference to the limitation "an adjusting device", such a limitation is considered inherent in the reference, as transmission device 34 of Bruestle could be adjustable, even if via brute force.
- 3. Claims 11-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Osborn. Osborn discoses a turbocharger (20) including a turbine wheel (170) supplied with exhaust gas from an internal combustion engine via at least one supply channel (54), wherein the amount of supplied exhaust gas is controllable via a gas control device (Fig. 4), which is associated with an actuating device (86) for producing a control movement to be transmitted to the gas control device (Fig. 4), as well as a transmission device (262) for transmitting the control movement of the actuating device (86) to the gas control device (Fig. 4). With reference to the limitation "an adjusting device", such a limitation is considered to be disclosed in Osborn at 80 in Fig. 3.

Allowable Subject Matter

4. Claims 15 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jinnai, Gartner and Johnson are cited to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheldon J Richter whose telephone number is (703) 305-0475. The examiner can normally be reached on M-F 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sheldon J Richter Primary Examiner Art Unit 3748